

MB Docket 07-57

FILED/ACCEPTED

AUG 22 2007

To: Commissioner Rob McDowell Fax: 1-866-418-0232

Federal Communications Commission
Office of the Secretary

From: Jay Timmons Date: 8/15/2007

Re: XM / Sirius Merger

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Please email me at jtimmons001@aol.com if you do not receive all three pages.

Sincerely,



Jay Timmons
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Jay Timmons
1608 Crestwood Lane
McLean, VA 22101

August 15, 2007

Commissioner Robert McDowell
Federal Communications Commission
Room 8-C302
445 12th Street, SW
Washington, DC 20554

Dear Rob,

I hope you are beginning to get a full night's sleep now that the baby is getting a little older. But I guess you are used to the drill by now!

As the Commission grapples with the issue of whether to allow the merger of XM and Sirius, I wanted to relay my concerns as a satellite radio consumer.

The satellite radio frontier is *fascinating* and holds, in my opinion, much potential for growth. But if allowed to become a monopoly, the ability of one company to squelch the ability of potential competitors to enter the market becomes too great a risk. Ultimately the decision you and your fellow commissioners must make is one that is best for promoting healthy market-driven competition and choice for consumers.

As is well known, the first step in an analysis of competition is to determine the exact scope of the market. Some analysts would have this market drawn so wide as to include any format of digital music delivery, including iPods. Inclusion of such digital stored-memory devices may confuse the issue, as they cannot provide their users with real-time digital broadcasts of music, entertainment and information, such as delivered by both satellite radio and terrestrial High-Definition Radio. In order for the Commission to adequately define the market, it must be done in an apples-to-apples/oranges-to-oranges comparison; in this case, the market must be narrowly limited to real-time broadcast of digital audio content. Only then will the Commission be able to see what other market participants may be harmed by this merger.

As I pointed out previously, for the consumers necessarily affected by a probable merger the concern would be the merged XM/Sirius' potential to abuse their monopoly pricing-power. Recent news reports by Sirius CEO Mel Karmazin

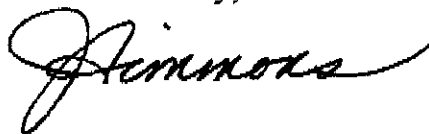
vowing price controls and a la carte pricing should the merger be approved may, in fact, be wishful thinking. Both companies will still have multi-year, multi-million dollar contracts to fulfill. Whatever efficiencies may be gained in a merger may not be enough to satisfy both their contractual obligations and their shareholder obligations. Further, there is concern that reception quality may be harmed since each service has a limited spectrum that is currently operating at maximum capacity. This would be particularly problematic for rural subscribers who already have limited choices in local programming.

As you delve into this issue on your own, I urge you to proceed slowly and measure the full potential impact on consumers.

Thank you.

With all best wishes, I remain,

Sincerely,

A handwritten signature in cursive script, appearing to read "J Timmons", with a long, sweeping horizontal flourish extending to the right.

Jay Timmons